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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/031,669	02/26/2004	Helmut Gross	QUE04 P-310	6805
277	7590	09/07/2004	EXAMINER	
PRICE HENEVELD COOPER DEWITT & LITTON, LLP			ALIE, GHASSEM	
695 KENMOOR, S.E.			ART UNIT	
P O BOX 2567			PAPER NUMBER	
GRAND RAPIDS, MI 49501			3724	

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/031,669

Applicant(s)

GROSS ET AL.

Examiner

Ghassem Alie

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07/20/04.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 01/17/02&03/26/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Election/Restrictions

1. Upon further consideration the restriction requirement mailed on 06/03/04 is withdrawn and claims 15-28 will be examined. Claims 1-14 have been cancelled.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969). A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b). Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).
3. Claims 15-28 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 15-28 of copending Application No. 10/031,817. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 15 and 17-28 are anticipated. With respect to claim 15, claims 15 and 18 in the copending application read on claim 15 of the instant application. Regarding claim 16, the receiving apparatus inherently receives the frame perpendicular to a direction of motion of the ram and the frame is fixable position centered with respect to the punch platen. The frame which is attached to the punch platen and received by the receiving apparatus is inherently fixed, centered, and positioned perpendicular to the direction

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of the motion of the ram, since the ram moves perpendicular to the center of the punch platen in order to perform the die-cut on the stack of materials.

4. Claims 15-17, 19, 20, 25, and 27 are also provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 18, 26, 27, and 31-34 of copending Application No. 10/031,671. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 15-17, 19, 20, 25, and 27 are anticipated. With respect to claim 15, claims 18, 31, and 33 in the copending application read on claim 15 of the instant application. Regarding claim 16, the receiving apparatus inherently receives the frame perpendicular to a direction of motion of the ram and the frame is fixable position centered with respect to the punch platen. The frame which is attached to the punch platen and received by the receiving apparatus is inherently fixed, centered, and positioned perpendicular to the direction of the motion of the ram, since the ram moves perpendicular to the center of the punch platen in order to perform the die-cut on the stack of materials.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Comment

5. Claims 16-28 have not been rejected over prior art, since the prior art does not teach that frame is tiltable with respect to the plane and is adjustable with respect to both orthogonal plane axes as set forth in claim 16. However, the allowability of claims 16-28 cannot be indicated at this time due to the issues with the obviousness-type double patenting as set forth on paragraph 3 above.

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Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Gaither et al. (3,113,515), Schnell et al. (5,715,275), Wallis (4,665,733), Blumer (5,183,247), Macchinot (3,741,057), Brestel et al. (3,290,977) and (3,468,200), Wegener (6,324,951), Neumann et al. (5,460,479), Jenkner (4,911,281), Long et al. (6,389,940), Schneider (3,546,990), Noell (2,495,659) and (2,483,735), Donnerberg et al. (2,220,056), Molison (6,055,896), Busch (3,479,914), and Bruehwiler (5,768,963) teach a die holder device having a clamping mechanism.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ghassem Alie whose telephone number is (703) 305-4981. The examiner can normally be reached on Mon-Fri 8:30 am - 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allan Shoap can be reached on (703) 305-1082. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for regular communications and (703) 872-9302 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

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GA/ga

August 31, 2004

A handwritten signature in black ink, appearing to read 'AS', with a long, sweeping diagonal line extending upwards and to the right.

Allan N. Shoap
Supervisory Patent Examiner
Group 3700